

**REMARKS/ARGUMENTS**

Claims 21, 23-29, 31-41 remain in the application. Claims 1-20, 22, and 30 have been canceled. The claims have been amended for clarity. Support for claim 24 is found at least at page 2, line 18, fig. 1, fig. 3, and fig. 10. No new matter has been added.

***Claim Rejections – 35 USC 103***

As an initial matter, Applicant's new representative notes that the Ho reference does not appear to be identified anywhere in the record of this application. There is no reference listed as "Ho" in any PTO Form 892 or 1449 in the present case. As the Office action has relied on "Ho" in all the rejections, but not identified the reference, Applicant respectfully submits that the Office action cannot possibly present a *prima facie* case of obviousness.

***Claims 21-24, 28-29, and 31-41***

Claims 21-24, 28-29, and 31-41 are rejected as allegedly being obvious over Dinwoodie in view of Hiroshi, Kowalski, and Ho.

***Erroneous Allegations***

The Office action makes allegations that have no basis in fact. The Office action alleges that "Dinwoodie shows a shelter/carport ...comprising a canopy defining a sheltered area thereunder, the shelter area including at least one vehicle parking place" when, in fact, it only discloses a solar electric shade system and fails to disclose or suggest a vehicle parking area; there is no "inherent" disclosure as suggested by the Office action. The Office action also alleges that "Dinwoodie shows a shelter/carport ...comprising a canopy ...permitting substantially unobstructed access by a vehicle to the sheltered area" when, in fact, it discloses two support posts that would clearly obstruct access.

The Office action further alleges that "Kowalski discloses a canopy..." when, in fact, it merely discloses a shield.

The Office action alleges that Ho discloses use of either LED or OLED to display information. Since Ho was never identified, it cannot disclose this.

The allegation with respect to claim 29 that dispersal of light emitting material in a photovoltaic device is obvious lacks any factual basis whatsoever.

*No Reason to Combine*

In the alleged combination, the Office action states that it “would have been obvious to modify Dinwoodie’s structure...” with various additional structures.

However, Dinwoodie is a design patent drawn to an aesthetic design for a solar electric shade system. As a design patent, the intended purpose of the Dinwoodie patent is the appearance of the device. Also, in accordance with M.P.E.P. 2143.01, if a “proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984).”

In the present case, the addition of structure such as a second photovoltaic device or light emitting diode to the lower surface would impermissibly alter the appearance of the system in Dinwoodie.

Furthermore, none of the applied prior art discloses or fairly suggests a canopy defining a sheltered area with at least one vehicle parking space. Dinwoodie merely teaches a *shade*; Hiroshi *teaches against* a sheltered area defining a parking space since the only embodiment where the PV panel makes up a top surface, fig. 6, instead *requires* the placement of a mirror in this location. Kowalski is drawn to a solar powered light and only suggests lighting of vertical indicia and signs. The vertical back wall *teaches against* a shelter that has no walls. The undefined Ho reference cannot teach or suggest anything.

*All Elements Not Found in Prior Art*

As mentioned above, Dinwoodie fails to disclose a sheltered area including at least one vehicle parking space. The applied prior art also fails to disclose or suggest “a supporting structure connected to and supporting the canopy *from a location outside the sheltered area* and permitting substantially *unobstructed access by a vehicle* to the sheltered area” as presently claimed. It further fails to disclose the (i) “a *curved* structure that is *downwardly concave*” as required by claim 24; a “substantially *transparent*” canopy as required by claims 26-27; an “*information display*” as required by claims 32 and 40; and that the panels are “*tiltable*” and “*adjustable*” as required by claim 41.

Hiroshi and the other applied prior art fails to disclose or suggest (i) the “an organic artificial light source layer associated with the underside of the canopy” and “a second

photovoltaic device attached to the lower surface of the canopy,” “wherein the second photovoltaic device is directed to receive light from the organic artificial light source layer” required by claim 28; (ii) “wherein the organic artificial light source layer is dispersed within the second photovoltaic device” as required by claim 29; “wherein the light emissive device is a light emitting diode device is capable of displaying human readable information and act as an information display” as required by claim 31; “wherein the light emitting emissive device is a thin film organic light emitting diode layer capable of acting as an information display” as required by claim 32; a “photovoltaic device...capable of generating electricity from the light emitted by the light emitting layer” as required by claim 33; a “photovoltaic canopy ... capable of generating electricity from the light emitted by the light emitting diode panel” as required by claim 36; the inverter required by claim 38; the reverse meter for measuring AC current produced by the inverter required by claim 39; “wherein the photovoltaic canopy includes at least two panels, each panel including an upper surface having a photovoltaic device, and a lower surface having a light emitting diode panel, wherein the light emitting diode panels form an information display” as required by claim 40; and “wherein, the canopy panels are tiltable and the position of the canopy panels are and adjustable” as required by claim 41.

#### *Claims 25-27*

Claims 25-27 were rejected as being obvious over Dinwoodie/Hiroshi/Kowalski/Ho as applied to claim 21, and further in view of Albright.

As discussed above, “Dinwoodie as modified” does not “show all the claim limitations except” for the type of photovoltaic devices claimed.

With respect to claim 25, Albright further fails to disclose or suggest anything with respect to the claim limitation that “the light emissive device comprises stacked light emissive layers.” With respect to claims 26 and 27, while Albright discloses use of transparent electrode layers at col. 6, lines 23-31, it fails to teach or suggest *an entire photovoltaic canopy that is substantially transparent*.

***Response to Arguments***

In response to arguments filed in prior Office action replies, the Examiner has merely applied new grounds of rejection based upon slightly varied grounds in order to avoid the supposed need to address Applicant's arguments.

However, Applicant herein specifically requests that the submitted arguments be addressed by the examiner if **any** of the same, defective prior art is reapplied or recombined in essentially the same manner as the prior Office action.

For example, Dinwoodie teaches the aesthetic use of support columns in a central portion of the shade and Applicant's have made note of this in this and many previous replies, yet the next Office action has consistently ignored these arguments by continuously reapplying Dinwoodie in a slightly different combination. The fact that any modification to move the supports of Dinwoodie would improperly modify the aesthetic intended purpose of Dinwoodie is applicable regardless of the other prior art with which it is combined, and should be addressed by the examiner.

***Conclusion***

Applicant respectfully submits that claims 21, 23-29, and 31-41 are allowable for the reasons cited above, and requests that a time Notice of Allowance be issued in this case.

Very truly yours,

ROBERTS MARDULA & WERTHEIM, LLC

/Christopher B. Kilner/

By \_\_\_\_\_

Christopher B. Kilner, J.D.

Reg. No. 45,381

Jon L. Roberts, Ph.D., J.D.

Reg. No. 31,293

Roberts Mardula & Wertheim, LLC

Tel.: (703)391-2900